

§ 90-16. Self-reporting requirements; confidentiality of Board investigative information; cooperation with law enforcement; patient protection; Board to keep public records.

(a) The North Carolina Medical Board shall keep a regular record of its proceedings with the names of the members of the Board present, the names of the applicants for license, and other information as to its actions. The North Carolina Medical Board shall publish the names of those licensed within 30 days after granting the license.

(b) The Board may in a closed session receive evidence involving or concerning the treatment of a patient who has not expressly or impliedly consented to the public disclosure of such treatment as may be necessary for the protection of the rights of such patient or of the accused physician and the full presentation of relevant evidence.

(c) All records, papers, investigative files, investigative reports, other investigative information and other documents containing information in the possession of or received or gathered by the Board, or its members or employees or consultants as a result of investigations, inquiries, assessments, or interviews conducted in connection with a licensing, complaint, assessment, potential impairment matter, disciplinary matter, or report of professional liability insurance awards or settlements pursuant to G.S. 90-14.13, shall not be considered public records within the meaning of Chapter 132 of the General Statutes and are privileged, confidential, and not subject to discovery, subpoena, or other means of legal compulsion for release to any person other than the Board, its employees or consultants involved in the application for license, impairment assessment, or discipline of a license holder, except as provided in subsections (d) and (e1) of this section. For purposes of this subsection, investigative information includes information relating to the identity of, and a report made by, a physician or other person performing an expert review for the Board and transcripts of any deposition taken by Board counsel in preparation for or anticipation of a hearing held pursuant to this Article but not admitted into evidence at the hearing.

(d) Repealed by Session Laws 2016-117, s. 2(o), effective October 1, 2016.

(e) Information furnished to a licensee or applicant, or counsel for a licensee or applicant, under subsection (d) of this section shall be subject to discovery or subpoena between and among the parties in a civil case in which the licensee is a party.

(e1) When the Board receives a complaint regarding the care of a patient, the Board shall provide the licensee with a copy of the complaint as soon as practical and inform the complainant of the disposition of the Board's inquiry into the complaint and the Board's basis for that disposition. If providing a copy of the complaint identifies an anonymous complainant or compromises the integrity of an investigation, the Board shall provide the licensee with a summary of all substantial elements of the complaint. Upon written request of a patient, the Board may provide the patient a licensee's written response to a complaint filed by the patient with the Board regarding the patient's care. Upon written request of a complainant, who is not the patient but is authorized by State and federal law to receive protected health information about the patient, the Board may provide the complainant a licensee's written response to a complaint filed with the Board regarding the patient's care. Any information furnished to the patient or complainant pursuant to this subsection shall be inadmissible in evidence in any civil proceeding. However, information, documents, or records otherwise available are not immune from discovery or use in a civil action merely because they were included in the Board's review or were the subject of information furnished to the patient or complainant pursuant to this subsection.

(f) Any notice or statement of charges against any licensee, or any notice to any licensee of a hearing in any proceeding shall be a public record within the meaning of Chapter 132 of the General Statutes, notwithstanding that it may contain information collected and compiled as a result of any such investigation, inquiry or interview; and provided, further, that

if any such record, paper or other document containing information theretofore collected and compiled by the Board, as hereinbefore provided, is received and admitted in evidence in any hearing before the Board, it shall thereupon be a public record within the meaning of Chapter 132 of the General Statutes.

(g) In any proceeding before the Board, in any record of any hearing before the Board, and in the notice of the charges against any licensee (notwithstanding any provision herein to the contrary) the Board may withhold from public disclosure the identity of a patient who has not expressly or impliedly consented to the public disclosure of treatment by the accused physician.

(h) If investigative information in the possession of the Board, its employees, or agents indicates that a crime may have been committed, the Board may report the information to the appropriate law enforcement agency or district attorney of the district in which the offense was committed.

(i) The Board shall cooperate with and assist a law enforcement agency or district attorney conducting a criminal investigation or prosecution of a licensee by providing information that is relevant to the criminal investigation or prosecution to the investigating agency or district attorney. Information disclosed by the Board to an investigative agency or district attorney remains confidential and may not be disclosed by the investigating agency except as necessary to further the investigation.

(j) All persons licensed under this Article shall self-report to the Board within 30 days of arrest or indictment any of the following:

- (1) Any felony arrest or indictment.
- (2) Any arrest for driving while impaired or driving under the influence.
- (3) Any arrest or indictment for the possession, use, or sale of any controlled substance.

(k) The Board, its members and staff, may release confidential or nonpublic information to any health care licensure board in this State or another state or authorized Department of Health and Human Services personnel with enforcement or investigative responsibilities about the issuance, denial, annulment, suspension, or revocation of a license, or the voluntary surrender of a license by a licensee of the Board, including the reasons for the action, or an investigative report made by the Board. The Board shall notify the licensee within 60 days after the information is transmitted. A summary of the information that is being transmitted shall be furnished to the licensee. If the licensee requests in writing within 30 days after being notified that the information has been transmitted, the licensee shall be furnished a copy of all information so transmitted. The notice or copies of the information shall not be provided if the information relates to an ongoing criminal investigation by any law enforcement agency or authorized Department of Health and Human Services personnel with enforcement or investigative responsibilities. (1858-9, c. 258, s. 12; Code, s. 3129; Rev., s. 4500; C.S., s. 6620; 1921, c. 47, s. 6; 1977, c. 838, s. 5; 1993 (Reg. Sess., 1994), c. 570, s. 6; 1995, c. 94, s. 17; 1997-481, s. 4; 2006-144, s. 7; 2007-346, s. 22; 2009-363, s. 4; 2009-558, s. 6; 2016-117, s. 2(o).)